

**CHRISTOPHER ASHWORTH (SBN 54889)  
SILICON VALLEY LAW GROUP  
A Law Corporation  
25 Metro Drive, Suite 600  
San Jose, CA 95110  
Telephone: (408) 573-5700  
Facsimile: (408) 573-5701**

**Attorneys for Plaintiff,**

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

DEBORAH A. ZACK, an individual, ) Case No. C08 00545 JCS  
Plaintiff, )  
v. )  
GARY P. MCKAE, an individual; CYNTHIA ) APPLICATION TO CLERK FOR ENTRY  
MCKAE, an individual; and Does through ; ) OF DEFAULT PURSUANT TO FRCP  
inclusive, ) 55(a); DECLARATION OF  
Defendants. ) CHRISTOPHER ASHWORTH

**TO THE CLERK OF THE ABOVE-ENTITLED COURT:**

Plaintiff DEBORAH ZACK (“Plaintiff”) pursuant to Rule 55(a) hereby makes application to the Clerk for Entry of Default for Plaintiff against Defendants GARY P. MCKAE and CYNTHIA MCKAE (“Defendants”), on the ground that said Defendants have failed to appear or otherwise respond to the complaint within the time prescribed by the Code of Civil Procedure. Plaintiff served the complaint on Defendants on February 7, 2008, evidenced by the proof of service of summons on file with this court.

The above-stated facts are set forth in the accompanying declaration of Christopher Ashworth, filed herewith.

Dated: May 6, 2008

SILICON VALLEY LAW GROUP  
A Law Corporation

By: /s/ Christopher Ashworth  
CHRISTOPHER ASHWORTH  
Attorneys for Plaintiff

## **DECLARATION OF CHRISTOPHER ASHWORTH**

I, CHRISTOPHER ASHWORTH, declare as follows:

1. I am an attorney in the law firm, Silicon Valley Law Group, attorneys of record for Plaintiff. I am one of the attorneys responsible for the handling of this file, and, in this capacity, have personal knowledge of the facts set forth in this declaration. This declaration is made in support of Plaintiff's application to Clerk for entry of Default against Defendants. If called upon as a witness, I could and would competently testify to the following matters.

2. The complaint in this action was filed on January 24, 2008.

3. Defendants were served with the summons and complaint on February 7, 2008. A true and correct copy of the proofs of service is attached hereto as Exhibit A.

4. That examination of the Court files and records in this action will show that Defendants have failed to plead or otherwise defend as to Plaintiff's Complaint.

5. That this declaration is made in accordance with Rule 55(a) for the purpose of enabling the Plaintiff to obtain an Entry of Default against the Defendants for failure to plead or otherwise defend as to the Complaint filed in this action.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on May 6, 2008, at San Jose, California.

/s/Christopher Ashworth  
CHRISTOPHER ASHWORTH

Attorney Or Party Without Attorney (Check One)

CHRISTOPHER ASHWORTH #54889  
 SILICON VALLEY LAW GROUP  
 25 METRO DRIVE, SUITE 600  
 SAN JOSE, CA 95110

408-573-5700

Ref. No. Or File No.

267976

Attorneys for: PLAINTIFF

Insert name of court, judicial district and branch court, if any:

UNITED STATES COURT-SAN JOSE  
 UNITED STATES DISTRICT COURT-SAN JOSE

Plaintiff:

DEBORAH A. ZACK

Defendant:

GARY P. MCKAE

**PROOF OF SERVICE**

Date:

Time:

Dept/Div:

Case Number:

C08 00545 JCS

I, Ronald Harris, Under penalty of perjury, hereby declare that I am and was on the dates herein mentioned, a Citizen of the United States, over the age of eighteen, and not a party to the within action;

I served the: CIVIL CASE COVER SHEET; SUMMONS; COMPLAINT; PLAINTIFF'S CERTIFICATION OF INTERESTED PARTIES; ORDER SETTING INITIAL CASE MANAGEMENT CONFERENCE AND ADR DEADLINES; CASE MANAGEMENT CONFERENCE ORDER; ALL MAGISTRATE JUDGES UNIFORM STANDING ORDER FOR MOTION PRACTICE; DECLINATION TO PROCEED BEFORE A MAGISTRATE JUDGE AND REQUEST FOR REASSIGNMENT TO A UNITED STATES DISTRICT JUDGE; NOTICE OF ASSIGNMENT OF CASE TO A UNITED STATES MAGISTRATE JUDGE FOR TRIAL; ORDER OF THE CHIEF JUDGE

in this action by personally delivering to and leaving with the following defendant or person on the date set opposite their respective names, a true copy thereof:

Defendant : CYNTHIA MCKAE

By Serving : GARY MCKAE, CO-OCCUPANT

Address : 505 MOORE ROAD, WOODSIDE, CA 94062

Date & Time : Thursday, February 7, 2008 @ 7:24am

Witness fees were : Not applicable.

Person serving:

Ronald Harris

PROFESSIONAL LEGAL SERVICES, INC.

P.O. Box 669, San Jose, CA 95106

408-280-0700 Fax 408-280-7121

a. Fee for service: \$85.00

d. Registered California Process Server

(1) Employee or independent contractor

(2) Registration No.: 401

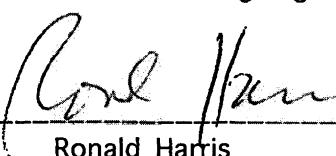
(3) County: San Mateo

(4) Expires:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: February 12, 2008

Signature:



Ronald Harris

Exhibit 



CHRISTOPHER ASHWORTH #54889

SILICON VALLEY LAW GROUP  
25 METRO DRIVE, SUITE 600

SAN JOSE, CA 95110

Telephone: 408-573-5700

Attorneys for: PLAINTIFF

United States Court-San Jose

United States District Court-San Jose

Plaintiff(s) :DEBORAH A. ZACK

Defendant(s) :GARY P. MCKAE

Hearing Date:  
Time: Dept.

Invoice No. 267976

## DECLARATION RE DILIGENCE

Case No.C08 00545 JCS

I RONALD HARRIS , and any employees or independent contractors retained by

Professional Legal Services, Inc. are and were on the dates mentioned herein over the age of eighteen years  
and not a party to this action. Personal service was attempted on

CYNTHIA MCKAE

(3) Alternate Address :,  
 (2) Business Address :,  
 (1) Residence Address: 505 MOORE ROAD, Woodside, Ca 94062

Date and time of attempt(s):

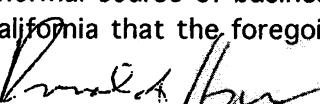
2/03/08 - 9:05AM NO ANSWER AT THE GATE

2/06/08 - 6:00PM NO ANSWER AT THE GATE

2/07/08 - 7:24AM SUBJECT UNAVAILABLE, DOCUMENTS SUB-SERVED TO GARY MCKAE,  
CO-OCCUPANT.

This Declaration is based upon business records maintained in the normal course of business  
 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
 true and correct.

Executed on February 12, 2008

Signature: 

Ronald Harris



Case 3:08-cv-00545-JCS

Document 9 Filed 05/07/2008

408-573-5700

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CHRISTOPHER ASHWORTH #54889

SILICON VALLEY LAW GROUP  
 25 METRO DRIVE, SUITE 600  
 SAN JOSE, CA 95110

Attorneys for: PLAINTIFF

Ref. No. Or File No.

267976

Insert name of court, judicial district and branch court, if any:

UNITED STATES COURT-SAN JOSE  
 UNITED STATES DISTRICT COURT-SAN JOSE

Plaintiff:

DEBORAH A. ZACK

Defendant:

GARY P. MCKAE

POS BY MAIL	Date:	Time:	Dept/Div:	Case Number:
				C08 00545 JCS

At the time of service I was at least 18 years of age and not a party to this action.

On February 8, 2008, I served the within:

CIVIL CASE COVER SHEET; SUMMONS; COMPLAINT; PLAINTIFF'S CERTIFICATION OF INTERESTED PARTIES; ORDER SETTING INITIAL CASE MANAGEMENT CONFERENCE AND ADR DEADLINES; CASE MANAGEMENT CONFERENCE ORDER; ALL MAGISTRATE JUDGES UNIFORM STANDING ORDER FOR MOTION PRACTICE; DECLINATION TO PROCEED BEFORE A MAGISTRATE JUDGE AND REQUEST FOR REASSIGNMENT TO A UNITED STATES DISTRICT JUDGE; NOTICE OF ASSIGNMENT OF CASE TO A UNITED STATES MAGISTRATE JUDGE FOR TRIAL; ORDER OF THE CHIEF JUDGE

on the defendant in the within action by placing a true copy in a sealed envelope with postage fully prepaid for first class in the United States mail at San Jose, California, addressed as follows:

CYNTHIA MCKAE  
 505 MOORE ROAD  
 WOODSIDE, CA 94062

650-743-7249

Person serving:

ROSE PENA

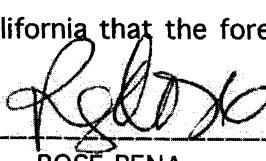
PROFESSIONAL LEGAL SERVICES, INC.  
 P.O. Box 669, San Jose, CA 95106  
 408-280-0700 Fax 408-280-7121

- a. Fee for service: \$85.00
- d. Registered California Process Server
  - (1) Employee or independent contractor
  - (2) Registration No.:
  - (3) County:
  - (4) Expires:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: February 12, 2008

Signature: \_\_\_\_\_

  
 ROSE PENA


Printed on recycled paper

Judicial Council form, rule 982(a) (23)

CHRISTOPHER ASHWORTH #54889  
 SILICON VALLEY LAW GROUP  
 25 METRO DRIVE, SUITE 600  
 SAN JOSE, CA 95110

408-573-5700

Page 6 of 7

Attorneys for: PLAINTIFF

Ref. No. Or File No.

267975

Insert name of court, judicial district and branch court, if any:

UNITED STATES COURT-SAN JOSE  
 UNITED STATES DISTRICT COURT-SAN JOSE

Plaintiff:

DEBORAH A. ZACK

Defendant:

GARY P. MCKAE

<b>PROOF OF SERVICE</b>	Date:	Time:	Dept/Div:	Case Number:
				C08 00545 JCS

I, Ronald Harris, Under penalty of perjury, hereby declare that I am and was on the dates herein mentioned, a Citizen of the United States, over the age of eighteen, and not a party to the within action;

I served the: CIVIL CASE COVER SHEET; SUMMONS; COMPLAINT; PLAINTIFF'S CERTIFICATION OF INTERESTED PARTIES; ORDER SETTING INITIAL CASE MANAGEMENT CONFERENCE AND ADR DEADLINES; CASE MANAGEMENT CONFERENCE ORDER; ALL MAGISTRATE JUDGES UNIFORM STANDING ORDER FOR MOTION PRACTICE; DECLINATION TO PROCEED BEFORE A MAGISTRATE JUDGE AND REQUEST FOR REASSIGNMENT TO A UNITED STATES DISTRICT JUDGE; NOTICE OF ASSIGNMENT OF CASE TO A UNITED STATES MAGISTRATE JUDGE FOR TRIAL; ORDER OF THE CHIEF JUDGE

in this action by personally delivering to and leaving with the following defendant or person on the date set opposite their respective names, a true copy thereof:

Defendant : GARY P. MCKAE

By Serving : GARY P. MCKAE

Address : 505 MOORE ROAD, WOODSIDE, CA 94062

Date & Time : Thursday, February 7, 2008 @ 7:24am

Witness fees were : Not applicable.

Person serving:

Ronald Harris

PROFESSIONAL LEGAL SERVICES, INC.

P.O. Box 669, San Jose, CA 95106

408-280-0700 Fax 408-280-7121

a. Fee for service: \$71.50

d. Registered California Process Server

(1) Employee or independent contractor

(2) Registration No.: 401

(3) County: San Mateo

(4) Expires:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: February 12, 2008

Signature: \_\_\_\_\_

Ronald Harris



1 ***George Khoury et al. v. Salim Mourad, et al.***  
 2 **Santa Clara County Superior Court, Case No. 107CV082907**

3                   **PROOF OF SERVICE**

4                   I declare as follows:

5                   I am over eighteen years of age and not a party to the within action; I am employed in the  
 6 County of Santa Clara, California; my business address is 25 Metro Drive, Suite 600, San Jose,  
 7 CA 95110. On May 7, 2008, I served a true and correct copy of the following document[s], with all  
 8 exhibits, if any: **APPLICATION TO CLERK FOR ENTRY OF DEFAULT PURSUANT TO**  
 9 **FRCP 55(a); DECLARATION OF CHRISTOPHER ASHWORTH** on the following party[ies]:

10                  Gary P. McKae  
 11                  505 Moore Road  
 12                  Woodside, CA 94062

13                  Cynthia McKae  
 14                  505 Moore Road  
 15                  Woodside, CA 94062

16                  ~~[XX]~~ **BY MAIL:** I am readily familiar with my employer's business practice for collection and processing of  
 17 correspondence for mailing with the United States Postal Service. I served the above document[s] on the party[ies] named  
 18 above in the above-referenced matter, by following ordinary business practice, placing a true copy thereof enclosed in a  
 19 sealed envelope, for collection and mailing with the United States Postal Service where it would be deposited for first  
 20 class delivery, postage fully prepaid, in the United States Postal Service that same day in the ordinary course of business,  
 21 addressed to the party[ies] at the address[es] listed above. [C.C.P. §1013(a)]

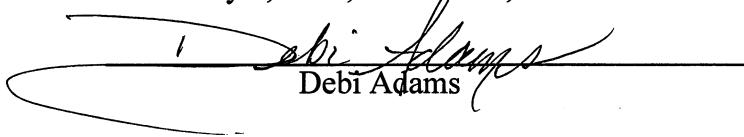
22                  ~~[ ]~~ **BY EXPRESS MAIL:** I served the above document[s] on the party[ies] named above, in the above-referenced  
 23 matter, by placing the above-named document[s] in a sealed envelope and depositing them in a mailbox regularly  
 24 maintained by the United States Postal Service for receipt of Express Mail, at \_\_\_\_\_ Post Office, \_\_\_\_\_,  
 25 California, with Express Mail postage thereon fully prepaid, addressed to the party[ies] at the address[es] listed above.  
 26 [C.C.P. §1013(c)]

27                  ~~[ ]~~ **BY FEDERAL EXPRESS:** I served the above-named document[s] on the party[ies] named above, in the above-  
 28 referenced matter, by depositing the above document[s] in a box or other facility regularly maintained by Federal Express,  
 29 in an envelope or package designated by Federal Express, with delivery fees paid on prepaid account, addressed to the  
 30 party[ies] at the address[es] listed above. [C.C.P. §1013(c)]

31                  ~~[ ]~~ **BY FACSIMILE:** On February 1, 2008, by use of fax machine number [408] 573-7864 or [408] 573-5720, I served  
 32 the above-named document[s] on the party[ies] named above, in the above-referenced matter, by transmitting by fax  
 33 machine to each party's fax machine number listed above. The fax machine I used complied with California Rules of  
 34 Court, Rule 2003, and no error was reported by the machine. Pursuant to California Rules of Court, Rule 2006(d), I  
 35 caused the machine to print a transmission record of the transmission, a copy of which is attached to this declaration.

36                  ~~[ ]~~ **BY PERSONAL DELIVERY:** By having said document[s] hand delivered to the party[ies] listed above at the  
 37 address[es] listed above.

38                  I declare under penalty of perjury under the laws of the state of California that the foregoing is  
 39 true and correct, and that this declaration was executed on May 7, 2008, at San Jose, California.

40                    
 41                  \_\_\_\_\_  
 42                  Debi Adams

**CHRISTOPHER ASHWORTH (SBN 54889)  
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San Jose, CA 95110  
Telephone: (408) 573-5700  
Facsimile: (408) 573-5701**

**Attorneys for Plaintiff,**

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

DEBORAH A. ZACK, an individual, ) Case No. C08 00545 JCS  
Plaintiff, )  
v. ) CLERK'S ENTRY OF DEFAULT  
GARY P. MCKAE, an individual; CYNTHIA ) PURSUANT TO FRCP 55(a)  
MCKAE, an individual; and Does through ;  
inclusive, )  
Defendants. )

After consideration of Plaintiff's request for entry of default, the declaration of Christopher Ashworth in support thereof, after review of the Court's file in this case indicating that no answer, or other response to the complaint has been filed.

DEFAULT IS HEREBY ENTERED against defendants GARY P. MCKAE and CYNTHIA MCKAE.

Dated:

**Clerk, United States District Court**

1 ***George Khoury et al. v. Salim Mourad, et al.***  
 2 **Santa Clara County Superior Court, Case No. 107CV082907**

3                   **PROOF OF SERVICE**

4                   I declare as follows:

5                   I am over eighteen years of age and not a party to the within action; I am employed in the  
 6                   County of Santa Clara, California; my business address is 25 Metro Drive, Suite 600, San Jose,  
 7                   CA 95110. On May 7, 2008, I served a true and correct copy of the following document[s], with all  
 8                   exhibits, if any: **CLERK'S ENTRY OF DEFAULT PURSUANT TO FRCP 55(a)** on the  
 9                   following party[ies]:

10                  Gary P. McKae  
 11                  505 Moore Road  
 12                  Woodside, CA 94062

13                  Cynthia McKae  
 14                  505 Moore Road  
 15                  Woodside, CA 94062

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 18                  above in the above-referenced matter, by following ordinary business practice, placing a true copy thereof enclosed in a  
 19                  sealed envelope, for collection and mailing with the United States Postal Service where it would be deposited for first  
 20                  class delivery, postage fully prepaid, in the United States Postal Service that same day in the ordinary course of business,  
 21                  addressed to the party[ies] at the address[es] listed above. [C.C.P. §1013(a)]

22                  ~~[ ]~~ **BY EXPRESS MAIL:** I served the above document[s] on the party[ies] named above, in the above-referenced  
 23                  matter, by placing the above-named document[s] in a sealed envelope and depositing them in a mailbox regularly  
 24                  maintained by the United States Postal Service for receipt of Express Mail, at \_\_\_\_\_ Post Office, \_\_\_\_\_,  
 25                  California, with Express Mail postage thereon fully prepaid, addressed to the party[ies] at the address[es] listed above.  
 26                  [C.C.P. §1013(c)]

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 34                  Court, Rule 2003, and no error was reported by the machine. Pursuant to California Rules of Court, Rule 2006(d), I  
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38                  I declare under penalty of perjury under the laws of the state of California that the foregoing is  
 39                  true and correct, and that this declaration was executed on May 7, 2008, at San Jose, California.

40                    
 41                  \_\_\_\_\_  
 42                  Debi Adams